

P 051520Z DEC 90  
FM AMEMBASSY MOGADISHU  
TO SECSTATE WASHDC PRIORITY 0963  
INFO RUEHDS/AMEMBASSY ADDIS ABABA  
AMEMBASSY CAIRO  
AMEMBASSY DJIBOUTI  
AMEMBASSY LONDON  
AMEMBASSY NAIROBI  
AMEMBASSY PARIS  
AMEMBASSY ROME  
USIA WASHDC 7883  
USCENTCOM REAR MACDILL AFB FLA

C O N F I D E N T I A L SECTION 01 OF 02 MOGADISHU 10556

E.O. 12356: DECL: OADR  
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SUBJECT: SECURITY DECREE CALLS PARTS OF CONSTITUTION INTO QUESTION

REF: MOGADISHU

¶1. (U) ON DECEMBER 5, RADIO MOGADISHU MADE THE FOLLOWING BROADCAST:

¶2. (U) TEXT FROM UNOFFICIAL USIS TRANSLATION.  
BEGIN TEXT:

THE MINISTER OF JUSTICE, HUSSEIN SHIEKH ABDIRAHMAN MATTAN, GAVE DETAILS ON A NEW ANTI-BANDITRY LAW SIGNED BY THE PRESIDENT WHICH WILL BE PUBLISHED IN THE OFFICIAL BULLETIN. THE MINISTER TOLD REPORTERS FROM THE LOCAL MEDIA THAT:

- ANYONE WHO ACTS IN A WAY THAT WEAKENS THE GOVERNMENT POLICY ON MAINTAINING SECURITY, UNITY, AND FUNCTIONALITY OF THE GOVERNMENT; AND COMMITS ARMED BANDITRY AND ROBBERY OF PUBLIC AND PRIVATE PROPERTY SHALL HAVE COMMITTTED A CRIME.

- ABOVE CRIME IS PUNISHABLE BY DEATH AND CONFISCATION OF ALL PROPERTY.

- ANYONE WHO ORGANIZES, ENCOURAGES, FACILITATES OR TAKES PART IN COMMITTING THE ABOVE CRIMES WILL BE SENTENCED FROM 10 YEARS TO LIFE IMPRISONMENT, ON CONDITION THAT THE CULPRIT SURRENDER LOOTED PROPERTY AND DID NOT COMMIT HOMICIDE. ANYONE WHO ASSISTS THE CULPRIT IN ESCAPING OR HIDING WILL BE SENTENCED 3 TO 5 YEARS. ANYONE WHO PURCHASES LOOTED PROPERTY OR BROKERS OF SUCH PROPERTY WILL BE SENTENCED TO 3 TO 6 YEARS AND FINED 1 TO 5 MILLION SHILLINGS.

- ANYONE WHO HIDES KNOWN INFORMATION ON BANDITRY WILL BE SENTENCED TO 1 TO 3 YEARS.

- IF SOMEONE GIVES ADVANCE INFORMATION ON ACTS OF BANDITRY AND SECURITY FORCES FOIL THE PLOT, THE INFORMANT WILL BE PARDONED.

- ANYONE WHO PROVIDES INFORMATION ON BANDITS WILL BE FINANCIALLY REWARDED FROM 200,000 TO 2,000,000 SHILLINGS.

- ANYONE WHO USES HIS/HER VEHICLE FOR TRANSPORTING LOOTED PROPERTY WILL BE SENTENCED TO 3 TO 5 YEARS.

- THE GOVERNOR OF THE REGION CAN KEEP THE CULPRIT IN DETENTION BETWEEN THREE MONTHS AND ONE YEAR, IF HE/SHE IS SEEN AS THREAT TO NATIONAL SECURITY. THE DECISION WILL BE RATIFIED BY THE REGIONAL COURT WITHIN SEVEN DAYS.

- ANYONE INJURED OR KILLED DURING THE COURSE OF FIGHTING AGAINST ARMED BANDITS WILL BE COMPENSATED BY THE GOVERNMENT WITH A SUM OF 1 TO 10 MILLION SHILLINGS, WHILE THE SEVERANCE PAY OF THE DECEASED

WILL BE GIVEN TO HIS IMMEDIATE FAMILY INCLUDING THE  
10 MILLION SHILLING BONUS.

- THE ATTORNEY GENERAL IS EMPOWERED TO APPOINT  
THE TRIAL JUDGES.

- THE BANDIT CAN BE ARRESTED WITHOUT WARRANT  
WITH NO RIGHT TO APPEAL.

- A DEVELOPMENT FUND TO GIVE THESE BONUSES WILL  
BE ESTABLISHED WITHIN THE POLICE FORCE.

- THIS LAW WILL BE VALID FOR ONE YEAR.

- ANY EXISTING LAWS THAT CONTRADICT THIS ONE IS  
NULL AND VOID.  
END TEXT.

13. (C) COMMENT. IT IS NOT CLEAR WHETHER THE  
DECREE APPLIES ONLY TO MOGADISHU.

NOTE: RECEIVED WITHOUT REF. NUMBER. CORRECTION TO FOLLOW.

14. (C) THE DECREE IS BROAD AND VAGUE. THE  
LANGUAGE APPLYING TO "ANYONE WHO ACTS IN A WAY  
THAT WEAKENS THE GOVERNMENT POLICY ON MAINTAINING  
SECURITY, UNITY, AND FUNCTIONALITY OF THE  
GOVERNMENT" AND ALLOWING THE DETENTION FOR UP  
TO ONE YEAR OF ANYONE "SEEN AS A THREAT TO NATIONAL  
SECURITY" COULD BE APPLIED TO ALMOST ANYONE OPPOSING  
THE GOVERNMENT; THAT IS TO SAY, TO ALMOST ANYBODY.

15. (C) SEVERAL SPECIFIC ARTICLES OF THE NEW  
CONSTITUTION ARE POTENTIALLY AFFECTED BY THIS  
DECREE. ARTICLE 84, PARAGRAPH 1 ALLOWS THE  
PRESIDENT TO "ADOPT PREVENTATIVE MEASURES" IN  
SITUATIONS THAT "MAY PLACE THE SOVEREIGNTY, THE  
TERRITORIAL INTEGRITY, THE INTERNAL OR EXTERNAL  
SECURITY, OR THE FUNCTIONING OF THE COUNTRY INTO  
GRAVE DANGER." PARAGRAPH 2 OF THE SAME ARTICLE,  
HOWEVER, SAYS SUCH MEASURES MUST BE PRESENTED TO  
THE PEOPLE'S ASSEMBLY WITHIN 30 DAYS FOR  
APPROVAL, AND THE LAW CANNOT BE VALID FOR MORE  
THAN SIX MONTHS, ACCORDING TO PARAGRAPH 3.

16. (C) ARTICLE 25, PARAGRAPH 2 PROHIBITS ARRESTS  
EXCEPT OF THOSE CAUGHT IN THE ACT OF COMMITTING  
AN OFFENSE, OR BY ORDER OF A COURT. ALTHOUGH  
THERE IS AN EXCEPTION FOR CASES OF "URGENT  
NECESSITY," SUCH ARRESTS MUST BE BROUGHT TO THE  
ATTENTION OF THE JUDICIARY WITHIN 48 HOURS SO THAT  
THE VALIDITY OF THE ARREST CAN BE EXAMINED.

17. (C) ARTICLE 27 ALLOWS EXPROPRIATION OF PRIVATE  
PROPERTY ONLY FOR "REASONS OF PUBLIC INTEREST,"  
AND IN EXCHANGE FOR JUST COMPENSATION.

18. (C) WHATEVER THE SPECIFIC VIOLENCE DONE TO THE  
PROVISIONS OF THE CONSTITUTION, THIS SORT OF  
DECREE, ALLOWING THE ARREST, WITHOUT WARRANT  
OR APPEAL, FOR A BROAD VARIETY OF OFFENSES, CLEARLY  
RUNS COUNTER TO THE SPIRIT OF THE DOCUMENT.

19. (C) THE NEW DECREE, ON TOP OF THE RECENT ARRESTS  
OF OPPOSITION FIGURES (SEPTTEL), WILL UNDOUBTEDLY  
BE VIEWED BY THE OPPOSITION AS AN ACT OF BAD FAITH  
ON THE PART OF THE SIAD GOVERNMENT. END COMMENT.

BISHOP